

# SENATE BILL 793

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CF HB 845

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By: **Senators Garagiola, Forehand, King, and Pugh**

Introduced and read first time: February 10, 2010

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Retirement and Pension System – Investments – Qualified Information**  
3 **Technology, Green Technology, Medical Device Technology, or Bioscience**  
4 **Businesses – Reporting**

5 FOR the purpose of ~~requiring the Board of Trustees of the State Retirement and~~  
6 ~~Pension System to invest a certain amount of the assets of the several systems~~  
7 ~~of the State Retirement and Pension System within a certain period of time in~~  
8 ~~certain venture capital funds focused on certain types of businesses; requiring~~  
9 ~~certain venture capital funds to invest a certain amount of the assets of the~~  
10 ~~several systems in certain types of businesses; requiring the Board of Trustees~~  
11 ~~to submit certain reports containing certain information on or before a certain~~  
12 ~~date; providing for the termination of this Act; defining a certain ~~terms~~ term;~~  
13 ~~and generally relating to reporting requirements of the Board of Trustees~~  
14 ~~investing for investments of the assets of the several systems in qualified~~  
15 ~~information technology, green technology, medical device technology, or~~  
16 ~~bioscience businesses.~~

17 BY repealing and reenacting, with amendments,  
18 Article – State Personnel and Pensions  
19 Section 21–123  
20 Annotated Code of Maryland  
21 (2009 Replacement Volume and 2009 Supplement)

22 Preamble

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 WHEREAS, Maryland's existing initiatives to help bioscience companies are  
2 lagging in resources; and

3 WHEREAS, Maryland has no targeted public pension fund vehicle for  
4 addressing opportunities to invest in emerging bioscience companies; and

5 WHEREAS, This powerful combination of intellectual capital, federal research  
6 dollars, and a highly educated workforce has already positioned Maryland to be a  
7 leader in the industry; now, therefore,

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – State Personnel and Pensions**

11 21–123.

12 (a) Except for those assets that the law requires another entity or person to  
13 control, the State Retirement Agency, under the supervision of the Board of Trustees,  
14 shall manage all assets of the several systems.

15 (b) The Board of Trustees:

16 (1) is deemed the owner of all the assets of the several systems; but

17 (2) may delegate some or all incidents of ownership to the State  
18 Retirement Agency to administer the investment portfolios of the several systems.

19 (c) (1) ~~(H)~~ IN THIS SUBSECTION ~~THE FOLLOWING WORDS HAVE~~  
20 ~~THE MEANINGS INDICATED:~~

21 ~~(H)~~, “QUALIFIED INFORMATION TECHNOLOGY, GREEN  
22 TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS”  
23 MEANS A BUSINESS THAT:

24 ~~I~~ (I) IS PRIMARILY ENGAGED IN:

25 ~~A~~ 1. MANUFACTURING, PROCESSING, OR  
26 ASSEMBLING INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL  
27 DEVICE TECHNOLOGY, OR BIOSCIENCE PRODUCTS;

28 ~~B~~ 2. CONDUCTING INFORMATION TECHNOLOGICAL,  
29 GREEN TECHNOLOGICAL, MEDICAL DEVICE TECHNOLOGICAL, OR BIOSCIENCE  
30 RESEARCH AND DEVELOPMENT; OR

1                    ~~C.~~ 3.    PROVIDING INFORMATION TECHNOLOGY, GREEN  
2 TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE-RELATED  
3 SERVICES; AND

4                    ~~2.~~ (II)    IS NOT PRIMARILY ENGAGED IN:

5                    ~~A.~~ 1.    RETAIL SALES;

6                    ~~B.~~ 2.    REAL ESTATE DEVELOPMENT;

7                    ~~C.~~ 3.    THE BUSINESS OF INSURANCE, BANKING, OR  
8 LENDING; OR

9                    ~~D.~~ 4.    THE PROVISION OF PROFESSIONAL SERVICES  
10 PROVIDED BY ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.

11                    ~~(III) "STATE-BASED COMPANY" MEANS A COMPANY THAT:~~

12                    ~~1.    IS HEADQUARTERED IN THE STATE AND INTENDS  
13 TO REMAIN IN THE STATE AFTER RECEIPT OF THE INVESTMENT OR IS  
14 HEADQUARTERED IN ANOTHER STATE AND INTENDS TO RELOCATE ITS  
15 HEADQUARTERS TO THE STATE AFTER RECEIPT OF THE INVESTMENT;~~

16                    ~~2.    HAS ITS PRINCIPAL BUSINESS OPERATIONS  
17 LOCATED IN THE STATE AND INTENDS TO MAINTAIN BUSINESS OPERATIONS IN  
18 THE STATE AFTER RECEIPT OF THE INVESTMENT OR HAS ITS PRINCIPAL  
19 BUSINESS OPERATIONS LOCATED IN ANOTHER STATE AND INTENDS TO  
20 RELOCATE BUSINESS OPERATIONS TO THE STATE WITHIN 90 DAYS AFTER  
21 RECEIPT OF THE INVESTMENT;~~

22                    ~~3.    HAS AGREED TO USE THE QUALIFIED INVESTMENT  
23 PRIMARILY TO:~~

24                    ~~A.    SUPPORT BUSINESS OPERATIONS IN THE STATE;~~  
25 ~~OR~~

26                    ~~B.    IN THE CASE OF A START UP COMPANY,  
27 ESTABLISH AND SUPPORT BUSINESS OPERATIONS IN THE STATE; AND~~

28                    ~~4.    EITHER;~~

29                    ~~A.    EMPLOYS AT LEAST 80% OF ITS EMPLOYEES IN  
30 THE STATE; OR~~

1 ~~B. PAYS AT LEAST 80% OF ITS PAYROLL TO~~  
2 ~~EMPLOYEES IN THE STATE.~~

3 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS~~  
4 ~~SUBSECTION, BEGINNING ON OR AFTER JULY 1, 2010, AND ENDING ON OR~~  
5 ~~BEFORE JUNE 30, 2015, THE BOARD OF TRUSTEES SHALL INVEST \$50,000,000~~  
6 ~~IN VENTURE CAPITAL FUNDS FOCUSING ON QUALIFIED INFORMATION~~  
7 ~~TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR~~  
8 ~~BIOSCIENCE BUSINESSES.~~

9 ~~(3) ANY INVESTMENT MADE BY THE BOARD OF TRUSTEES UNDER~~  
10 ~~PARAGRAPH (2) OF THIS SUBSECTION IN VENTURE CAPITAL FUNDS FOCUSING~~  
11 ~~ON A QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL~~  
12 ~~DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS MAY NOT EXCEED 10% OF THE~~  
13 ~~TOTAL AMOUNT OF ALL FUNDING RECEIVED BY THAT VENTURE CAPITAL FUND.~~

14 ~~(4) (2)~~ ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD  
15 OF TRUSTEES SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF  
16 THE STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION  
17 COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT  
18 COMMITTEE ON PENSIONS THAT PROVIDES:

19 (I) A LIST OF VENTURE CAPITAL FUNDS FOCUSING ON  
20 QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL  
21 DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES IN WHICH THE ~~BOARD OF~~  
22 ~~TRUSTEES HAS SEVERAL SYSTEMS HAVE~~ INVESTED AND THE AMOUNT INVESTED  
23 IN EACH VENTURE CAPITAL FUND;

24 ~~(II) A LIST OF THE STATE-BASED COMPANIES IN WHICH THE~~  
25 ~~VENTURE CAPITAL FUNDS HAVE INVESTED ASSETS OF THE SEVERAL SYSTEMS~~  
26 ~~AND THE AMOUNT INVESTED IN EACH;~~

27 ~~(III) THE INVESTMENT RETURNS ON EACH INVESTMENT~~  
28 ~~MADE BY A VENTURE CAPITAL FUND FOCUSING ON QUALIFIED INFORMATION~~  
29 ~~TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR~~  
30 ~~BIOSCIENCE BUSINESS; AND~~

31 ~~(IV) RECOMMENDATIONS BY THE BOARD OF TRUSTEES TO~~  
32 ~~IMPROVE THE METHODOLOGY UNDER WHICH THE BOARD OF TRUSTEES IS~~  
33 ~~REQUIRED TO INVEST IN VENTURE CAPITAL FUNDS FOCUSED ON QUALIFIED~~  
34 ~~INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE~~  
35 ~~TECHNOLOGY, OR BIOSCIENCE BUSINESSES.~~

1                    (II) A STATEMENT OF THE AGGREGATE AMOUNT OF ASSETS  
 2 OF THE SEVERAL SYSTEMS INVESTED IN COMPANIES HEADQUARTERED IN THE  
 3 STATE BY ALL VENTURE CAPITAL FUNDS IN WHICH THE SEVERAL SYSTEMS  
 4 HAVE MADE AN INVESTMENT; AND

5                    (III) A STATEMENT OF THE AGGREGATE AMOUNT OF ASSETS  
 6 OF THE SEVERAL SYSTEMS INVESTED IN EACH OF THE QUALIFIED INFORMATION  
 7 TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR  
 8 BIOSCIENCE BUSINESSES BY ALL VENTURE CAPITAL FUNDS IN WHICH THE  
 9 SEVERAL SYSTEMS HAVE MADE AN INVESTMENT.

10            ~~[(c)] (D)~~ (1) ~~{The} EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS~~  
 11 ~~SECTION, THE~~ Board of Trustees may invest assets of the several systems subject to  
 12 the conditions that it imposes.

13                    (2) The Board of Trustees shall include the conditions that it adopts  
 14 under ~~{paragraph (1) of}~~ this subsection in the investment policy manual required by §  
 15 21-116(c) of this subtitle.

16            ~~[(d)] (E)~~ (1) This subsection applies only to the execution of:  
 17                    (i) ground rent redemption deeds;  
 18                    (ii) releases or reassignments of mortgages; and  
 19                    (iii) satisfactions or reassignments of notes conveying, releasing,  
 20 or reassigning any interest owned by the State for the use of a fund of the several  
 21 systems.

22                    (2) An instrument must be executed by any two of:  
 23                    (i) the State Treasurer;  
 24                    (ii) the Executive Director of the State Retirement Agency;  
 25                    (iii) the Chief Investment Officer of the State Retirement  
 26 Agency; or  
 27                    (iv) another employee of the State Retirement Agency as the  
 28 Executive Director designates with the approval of the Board of Trustees.

29            ~~[(e)] (F)~~ (1) The Board of Trustees may commingle assets of the several  
 30 systems, including the Postretirement Health Benefits Trust Fund, if the Board of  
 31 Trustees keeps seven sets of records that show:

1 (i) the percentage of participation of each State system or group  
2 of State systems, including the Postretirement Health Benefits Trust Fund;

3 (ii) the percentage of income, gains, and losses applicable to  
4 each State system or group of State systems, including the Postretirement Health  
5 Benefits Trust Fund; and

6 (iii) the total contributions and disbursements applicable to each  
7 State system or group of State systems, including the Postretirement Health Benefits  
8 Trust Fund.

9 (2) The Board of Trustees shall keep records required by paragraph (1)  
10 of this subsection for each of the following:

11 (i) the group that consists of the Correctional Officers'  
12 Retirement System, the Employees' Pension System, the Employees' Retirement  
13 System, and the Legislative Pension Plan;

14 (ii) the Judges' Retirement System;

15 (iii) the Local Fire and Police System;

16 (iv) the Law Enforcement Officers' Pension System;

17 (v) the State Police Retirement System;

18 (vi) the group that consists of the Teachers' Pension System and  
19 the Teachers' Retirement System; and

20 (vii) the Postretirement Health Benefits Trust Fund.

21 **[(f)] (G)** (1) Notwithstanding any other law in force on or after July 1,  
22 1988, unless the law makes specific reference to this subsection, and subject to  
23 paragraph (2) of this subsection, the Board of Trustees may keep all analyses,  
24 forecasts, negotiations, papers, records, recommendations, and reports closed to public  
25 inspection until:

26 (i) the release of the information would not adversely affect the  
27 negotiation for or market price of a security; and

28 (ii) completion of:

29 1. a proposed purchase or program of purchases leading  
30 to a cumulative position in a security;

31 2. the making, sale, or prepayment of a loan;

1 3. any proposed sale or program of sales leading to the  
2 elimination of a position in a security; or

3 4. the sale or purchase of real estate.

4 (2) (i) The sale or purchase of real estate shall be subject to the  
5 approval of a majority of the Comptroller, Treasurer, and Secretary of Budget and  
6 Management, in their capacity as members of the Board of Trustees.

7 (ii) On or before October 1 of each year, the Board of Trustees  
8 shall submit a report in accordance with § 2–1246 of the State Government Article to  
9 the Board of Public Works, the Senate Budget and Taxation Committee, the House  
10 Appropriations Committee, and the Joint Committee on Pensions that provides a list  
11 of all sales or purchases of directly held real estate approved by the Board of Trustees  
12 for the immediately preceding fiscal year.

13 **[(g)] (H)** Any direct owned real estate purchased as an investment by the  
14 State Retirement and Pension System shall be managed by an external investment  
15 manager selected by the Chief Investment Officer.

16 **[(h)] (I)** Title 4, Subtitle 3, Part III and § 10–305 of the State Finance and  
17 Procurement Article do not apply to the sale, acquisition, lease, transfer, exchange, or  
18 other disposition of any real or personal property acquired by the Board of Trustees in  
19 any transaction authorized under this title.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 July 1, 2010. It shall remain effective for a period of 5 years and, at the end of June 30,  
22 2015, with no further action required by the General Assembly, this Act shall be  
23 abrogated and of no further force and effect.

Approved:

\_\_\_\_\_  
Governor.

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President of the Senate.

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Speaker of the House of Delegates.